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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/894,211	07/30/1997	MORDECHAI HAMMER	2036.018PCT	8754

7590 06/16/2003
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EXAMINER

WALSH, JOHN B

ART UNIT PAPER NUMBER

3676

DATE MAILED: 06/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/894,211

Applicant(s)

HAMMER, MORDECHAI

Examiner

John B. Walsh

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the applicant's Request For Continuing Examination and the amendment filed August 13, 2002. An action on the merits appears below.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Currently the abstract is longer than 150 words. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U. S. C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

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(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

4. The specification is objected to under 37 CFR 1.71 because the phrase "hand-holdable" is not described in the specification. Applicant has not provided any basis for the interpretation of this phrase in the specification.

5. Claims 1-49 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not set forth a description of the phrase "hand-holdable".

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1- 50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 3, it is unclear from the claims how the phrase "hand-holdable" should be interpreted. Given applicant's disclosure of a myriad of objects from vacuum cleaner wands to sail boat masts. It is not clear whether "hand-holdable" should be interpreted as any object that can be held with outstretched hands, such as, the large sail boat mast or is the phrase limiting the claims to those inventions that fit within the palm of a single hand? **Applicant must clarify the meaning of this phrase in response to this Office Action.**

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Claim 50, lines 1-8, The phrase "such as", line 3, renders the claim indefinite since it cannot be determined if the following list operates as a limitation or restriction on the "systems, devices or structures" set forth lines 2 and 3.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-3, 5, 8, 16-18, 36, 38, 41, 42, 45, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pipes, U.S. Patent No. 4,388,033 in view of Wilding, U.S. Patent No. 5,040,941.

Pipes discloses a motion transmission and multiplication system (10) comprising: at least first 12 and second 14 elements extending in the same orientation; and at least a first means 62 linking said first 12 and second 14 elements and being movable with respect to at least one of them, said first linking means 62 being arranged on said first element 12 such that when said first linking means 62 is provided with a driving motion (by pinion 22) in a direction of said orientation, said first 12 and second 14 elements are provided with a driven motion with respect to each other. First element 12 telescopically receives second element 14 and first linking means 62 is a flexible member. The speed control is the motor. Third element 16 is telescopically received in the second element 14. Linking means 62 is enclosed in the first element 12. Rollers (35, 43, 51, 57) guide the elements in tracks (36, 44, 52, 58). System 10 is a conveyor. The room

that the system is used in can be illuminated. A toy is anything that can be used for amusement. Any object can be a toy since it depends upon the intent of the person using the device. The word toy does not provide any structural limitation upon the invention. The movement of the conveyer is not dependent upon gravity.

Pipes does not disclose that the motion is controllably reversible.

Wilding teaches the use of a controller 25 for the purpose of controlling the movement of a conveyer 30 for the purpose maintaining consistent movement of the product being conveyed.

It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the device of Pipes as taught by Wilding for the purpose of maintaining consistent movement of the product being conveyed.

10. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pipes in view of Wozniak, U.S. Patent No. 4,735,373.

Pipes discloses a motion transmission and multiplication system (10) comprising: at least first 12 and second 14 elements extending in the same orientation and have anterior and posterior ends. A tool or other object can be connected to the system. At least a first means 62 links the first 12 and second 14 elements and is movable with respect to at least one of them. The first linking means 62 is arranged on the first element 12 such that when the first linking means 62 is provided with a driving motion (by pinion 22) in a direction of the orientation, the first 12 and second 14 elements are provided with a driven motion with respect to each other. It is considered inherent in the system of Pipes that the motion is controllably reversible.

Pipes does not disclose that the system is "hand-movable".

Wozniak teaches that the use of a hand crank or a motor is a matter of design choice in the field of conveyors, see col. 1, lines 53 and 54. It is considered that the use of a hand crank makes the system "hand-movable" in accordance with applicant's disclosure.

It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the device of Pipes as taught by Wozniak as a matter of design choice.

11. Claims 1-3, 5, 8-12, 16-19, 23, and 40 are rejected under 35U.S.C. 103(a) as being unpatentable over White, U.S. Patent No, 1,456,478 in view of Wilding.

White discloses a motion transmission and multiplication system comprising: at least first 20 and second 23 elements extending in the same orientation; and at least a first flexible means 43 linking said first 20 and second 23 elements and being movable with respect to at least one of them, said first flexible linking means 43 being arranged on said first element 20 such that when said first flexible linking means 43 is provided with a driving motion (by gearwheels 46, 48) in a direction of said orientation, said first 20 and second 23 elements are provided with a driven motion with respect to each other. First 20 and second 23 elements are rigid and telescope in side-by-side tracks. The first, second and third elements are rigid and driven by screw 16. First 20, second 23, and third 24 elements are shutters.

White does not disclose the use of a controller.

Wilding teaches the use of a controller 25 for the purpose of controlling the movement of a linear device (conveyer 30) for the purpose maintaining consistent movement of the product being conveyed.

It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the device of White as taught by Wilding for the purpose of maintaining consistent movement of the device.

12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over White in view of Wilding as applied to claims 1-3, 5, 8-12, 16-19, 23, and 40 above, and further in view of Sandberg, U.S. Patent No. 326,336.

White in view of Wilding, as set forth above, discloses all of the claimed invention except that the driving motion is provided by hand.

Sandberg teaches the use of a hand crank G for the purpose of allowing hand operation of an extendible member.

It would have been obvious to a person having ordinary skill in the art at the time of applicant's invention to modify the device of White in view of Wilding and further in view of Sandberg to incorporate a hand crank for the purpose of allowing hand operation of the device.

Allowable Subject Matter

13. Claims 6, 7, 13-15, 19-22, 25-35, 37, 39, 43, 44, 46, 48, and 49 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant argues that a field of use restriction in the preamble cannot be used to define patentable subject matter. Applicant's argument is persuasive. The proposed allowance of a

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claim directed to the fields of use of the invention is withdrawn. Therefore, whether such a list is open or closed is irrelevant.

The remainder of applicant's comments have been considered. These comments are not persuasive. Accordingly, the rejections of the claims remain in force.

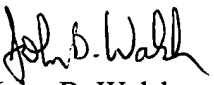
Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 703-305-0444. The examiner can normally be reached on Monday-Friday from 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-872-9325.


John B. Walsh
Patent Examiner
Technology Center 3670

June 12, 2003